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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,636	10/16/2003	Elliot Rudell	155660-0224	1952
1622	7590	04/14/2006	EXAMINER	
IRELL & MANELLA LLP 840 NEWPORT CENTER DRIVE SUITE 400 NEWPORT BEACH, CA 92660			DONNELLY, JEROME W	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,636

Applicant(s)

RUDELL ET AL.

Examiner

Jerome W. Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/25/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application. 1 3-9 and 11-17 and 19 and 20
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected. 1 3-9, 11-17 19 and 20
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

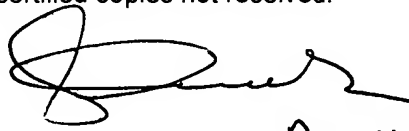
Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____


Prinscue

In response to the applicants argument directed towards “an audible indicator that provides an indication of a motor speed set by a user”.

The examiner considers the device of Stevens as still meeting the claim limitations as amended. Steven says that the counter (116) stops the machine or sounds an alarm after a number of revolutions which the examiner or any one else of ordinary skill in the art is capable of equating to motor speed, rope speed and or jumping speed. The device has the capability of audio sound with respect to a number of revolutions of a motor over time. Stevens has the limitations required to meet the claim language of claim 1, in that Steven includes an audible indicating means coupled directly or indirectly to a motor.

In response to applicants argument directed to Reid et al. Reids et al. Col. 5, lines 52-57 discloses the capability to set speed and a display panel. Reid col. 7 lines 66-67 discloses the capability of emitting sound/audio.

Given the above teaching of setting speed displaying data and Reids capability of generating sound/audio as a type of indicator, the examiner fails to see an inventive step in providing sound as an indicator verses a visual display or any other display associated with the speed of the rope or motor of his device which are essentially one in the same.

The examiner further notes that the disclosure of Reid meets the claim limitations of the device by disclosing an audible indicator couple to a motor which can provide whatever information a user can deduce from said motor and said audible indicator.

In view of the fact that applicant has only argued these limitation as directed to the application of Steven and Reid et al as prior art. The examiner re-applies the references as

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previously applied in the office actions of 12/10/04 and 6/27/05

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 9 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens.

Claims 1, 5, 6, 7, 9 and 13-15 are rejected for the same reasons as set forth in the rejection of the same claims in the office action of 12/10/04.

As to the device including an audible indicator not Stevens col. 4, line 32 and 33.

Claims 17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Reid et al. Claims 17, 19 and 21 are rejected for the same reasons as set forth in the rejection of the same claims in the office action of 12/10/04 and 6/27/03.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reid et al.

Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al.

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Claims 1, 3, 4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steven in view of Reid.

Claims 1, 8, 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al in view of Reid et al.

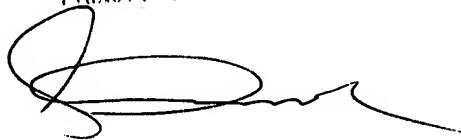
Claims 1-4, 8, 11 and 17-21 are rejected for the same reasons as set forth in the rejection of the same claims in the office action 12/10/04 and 06/07/05.

The examiner further notes that to indicate motor speed in audio or in addition to visual would have been an obvious means of indicating exercise information and equipment parameters known in the art. Audio indication used in conjunction with visual indicator is old and well known in the art.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'Jerome Donnelly', written over the printed name and title.